IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.95 OF 2005

ZF Steering Gear (India) Ltd. ..Appellant.

V/s.

The Union of India & Ors. ..Respondents.

Mr.S.Shreedharan with Mr. Prakash Shah and Bharat Raichandani i/b. PDS Legal for appellant.

Mr.A.J.Rana, Senior Advocate with S.V.Bharucha for respondents.

CORAM : Dr.S.RADHAKRISHNAN & J.P.DEVADHAR, JJ.

DATED : 16TH JANUARY, 2006.

P.C. :-

1. Heard learned counsel for the appellant and the respondents. Perused the order passed by the Commissioner of Central Excise (Appeals), Pune dated 27/7/2004 as well as the order dated 24th February, 2005 passed by the CESTAT.

2. The main grievance of the learned counsel for the appellant is that this Court in Writ Petition No. 2817 of 2003 had categorically observed that as the original documents were misplaced and the bills of entry duly certified by the Assistant Commissioner (Customs) are now available and the same can be produced before

the authorities concerned, the matter was remanded to consider the same as the same were duly certified to be true copies by the Assistant Commissioner (Customs). Unfortunately, both the orders passed by the Commissioner of Central Excise (Appeals) dated 26th July, 2004 and the CESTAT dated 24th February, 2005 have proceeded on the ground that the original bills of entries were not produced and hence the case of the appellant was rejected.

3. Having regard to the facts and circumstances of the case, we quash and set aside both the orders passed by the Commissioner of Central Excise (Appeals) dated 26/7/2004 as well as order passed by CESTAT dated 24/2/2005 and remand back the matter to the Commissioner of Central Excise (Appeals) for considering the claim of the appellant based on the aforesaid certified copies of bills of entry, strictly on its own merits in accordance with law.

4. The Commissioner of Central Excise (Appeals) to decide the matter as expeditiously as possible.

5. Appeal is allowed in terms of the above order with no order as to costs.

(Dr.S.RADHAKRISHNAN,J.)

(J. P. DEVADHAR, J.)